

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

XIAFEN CHEN,

Plaintiff,

v.

UNITED STATES OF AMERICA,

Defendant.

Case No. 1:19-cv-00045

District Judge Timothy S. Black

**UNITED STATES OF AMERICA’S CORRECTED UNOPPOSED MOTION
FOR EXTENSION OF TIME TO RESPOND TO PLAINTIFF’S AMENDED
COMPLAINT**

Defendant the United States of America respectfully moves pursuant to Federal Rule of Civil Procedure 6(b) for a 60-day extension, to and including August 20, 2019, to answer, move, or otherwise plead in response to Plaintiff’s Amended Complaint (ECF No. 12).

On June 7, 2019, Plaintiff filed an Amended Complaint (ECF No. 12) on the docket and subsequently moved the Court for leave to amend as a matter of right (ECF No. 13). Defendant’s deadline to answer or move to dismiss the Amended Complaint is June 21, 2019. *See* Fed. R. Civ. P. 15(a)(3).

On June 17, 2019, Defendant¹ moved to strike the Amended Complaint and opposed Plaintiff’s Motion for Leave to Amend the Complaint as a Matter of Right. (*See* ECF No. 16.) In that filing, Defendant also requested an extension of 60 days,

¹ The United States’ Corrected Motion is filed to correct a typographical error at this location in the United States’ initial brief. Previously, this sentence stated that the referenced motion was filed by Plaintiff.

to and including August 20 2019, to file a motion to dismiss or answer the Amended Complaint in the event that the Court determines that the Amended Complaint was properly filed. Out of an abundance of caution, Defendant now separately moves for the same extension of time to respond to Plaintiff's Amended Complaint if the Court determines that the Amended Complaint is properly filed. The Amended Complaint raises new claims and allegations that will require substantial briefing. A 60-day extension will not prejudice Plaintiff or delay the case because the individual defendants named in the Amended Complaint will have 60 days after service to respond to the Amended Complaint. *See* Fed. R. Civ. P. 12(a)(3).²

Counsel for the United States has discussed the extension requested herein with counsel for Plaintiff. Counsel for Plaintiff advised that Plaintiff does not consent to the requested extension, but does not oppose the requested extension.

(Signature on following page)

² The newly-named individual defendants are not presently represented by undersigned counsel. If the Court determines that the Amended Complaint was properly filed and the individual defendants are served, however, the individual defendants may request individual representation by the U.S. Department of Justice.

Respectfully submitted,

BENJAMIN C. GLASSMAN
United States Attorney

s/ Matthew J. Horwitz
MATTHEW J. HORWITZ (0082381)
KEVIN A. KOLLER (NY 5180609)
Assistant United States Attorneys
Attorneys for the United States of America
221 East Fourth Street, Suite 400
Cincinnati, Ohio 45202
Office: (513)684-3711
Fax: (513)684-6972
Email: Matthew.Horwitz@usdoj.gov
Email: Kevin.Koller@usdoj.gov

CERTIFICATE OF SERVICE

I hereby certify that on this 20th day of June, 2019, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which serves copies to all parties of record.

s/Matthew J. Horwitz
MATTHEW J. HORWITZ (0082381)
Assistant United States Attorney